

REMARKS

Claims 11-17, 20, 32, and 38-41 are pending. Claims 1-7, 10, 21-27, 30-31, and 33-37 were previously withdrawn. Claims 8-9, 18-19, and 28-29 were previously cancelled. Claims 1, 5, 11, 12, 14-17, 20-22, 24, 25, 34, 36, 38, and 40
5 have been amended. Claims 3, 13, and 23 are cancelled. Claims 11, 12, 14-17, 20, 32, and 38-41 remain.

Applicant's representative thanks the Examiner for the telephonic interview of December 17, 2008, during which the claims were discussed.

Objection to Drawings

10 The drawings stand subject to objection under 37 CFR 1.83(a). The objection has been addressed via the claim amendments and clarifying remarks in relation to the rejections under 35 U.S.C. § 112, first and second paragraphs, as discussed below. Withdrawal of the objection is requested.

Rejections under 35 U.S.C. § 112, first paragraph

15 Claims 11-17, 20, 32, and 38-41 stand rejected under 35 U.S.C. § 112, first paragraph, for lack of enablement. Claims 11 and 38 have been amended and now satisfy the enablement requirement. Support can be found in the specification, for example, on page 6, line 10-page 7, line 2. No new matter has been entered. Claims 12-17, 20, and 32 are dependent on Claim 11 and likewise
20 satisfy the enablement requirement. Claims 39-41 are dependent on Claim 38 and likewise satisfy the enablement. Withdrawal of the rejection is requested.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 11-17, 20, 32, and 38-41 stand rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Independent Claims 11 and 38 have been
25 amended and are now definite. Support for the claim amendments can be found in the specification, for example, on page 6, line 10-page 7, line 2. No new matter has been entered. Claims 12-17, 20, and 32 are dependent on Claim 11 and are patentable for the above-stated reasons and as further distinguished by the limitations therein. Claims 39-41 are dependent on Claim 38 and are patentable

for the above-stated reasons and as further distinguished by the limitations therein. Withdrawal of the rejection is requested.

Rejections under 35 U.S.C. § 103(a) over Walker in view of Johnson

Claims 11, 12, 16, 17, 20, 32, and 38-41 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,794,207 to Walker et al. (“Walker”), in view of U.S. Patent No. 6,529,885 to Johnson. Applicant traverses.

Prima facie obviousness requires *inter alia* “a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.” MPEP 2143(A).

The Walker and Johnson references were discussed in applicant’s Response to Office action, filed on February 26, 2008, which is incorporated herein by reference. In addition, Walker teaches communicating a binding conditional purchase offer (CPO) to potential sellers, in which acceptance alone binds the parties into a contract, after which the seller must perform and the buyer must pay (Walker, Col. 4, lines 16-27; Col. 17, lines 4-7). Johnson teaches a bank making payment to a seller upon the removal of contingencies by parties to an existing contract (Johnson, Col. 4, lines 50-61). Thus, combining the teachings of Walker and Johnson provides pre-contract formation condition specification and post-contract formation contingency removal

Claims 11 and 38 recite a receiving module configured to receive an offer from the buying system for the information that includes a contingency that specifies an uncertainty of the event occurring, a specification module to specify a condition for the information that will resolve the uncertainty and thereby satisfy the contingency, and a condition module configured to provide the information and the condition, wherein acceptance of the condition forms a contract.

In contrast, a condition as taught by the Walker-Johnson combination, originates with a buyer and only must be met by a seller to form a legally binding contract (Walker, Col. 7, lines 35-37). In Claims 11 and 38, the seller provides

the conditions to the buyer and a contract is not formed until the buyer accepts the conditions. In fact, the Walker-Johnson combination teaches away from Claims 1 and 38 by differentiating the binding offer of the buyer in Walker from the non-binding request proposal, per Claims 1 and 38 (Col. 4, lines 13-27).

5 Additionally, a contingency, as taught by the Walker-Johnson combination, can originate with, and can be removed by, a buyer, seller, or third party who are involved with a contract, and can be applicable to aspects of the transaction existing independently of the buyer's needs. In Claims 11 and 38, the buyer confirms that the contingency, which will trigger at least part of the
10 payment, has been resolved by the seller's condition that was included with the information. In contrast, the Walker-Johnson combination teaches that the occurrence of an event related to the information or goods alone will not serve to remove a contingency.

 Further, Claim 11 has been amended to incorporate subject matter from
15 now canceled dependent Claim 13, which has been further rejected under 35 U.S.C. § 103(a) as being obvious over Walker, in view of Johnson, and further in view of U.S. Patent No. 5,608,620, issued to Lundgren. Claim 11 now recites wherein the contingency payment module is further configured to adjust an amount for the at least part of the payment based *directly* on accuracy of a
20 predicted probability against a true probability that the condition to resolve the uncertainty to thereby satisfy the contingency occurs (emphasis added). Additionally, Claim 38 has been amended and now recites a probability module configured to require at least part of a payment based *directly* on accuracy of a predicted probability against a true probability of the event occurring, to select the
25 predicted probability for the condition to resolve the uncertainty and thereby satisfy the contingency, and to determine an amount for the payment based on a function which uses the predicted probability (emphasis added). No new matter has been entered. Support for the claim amendment can be found in the specification, for example, on page 9, line 20-page 10, line 9 page 12, lines 25-28;
30 and page 14, lines 9-11.

 The Walker-Johnson combination fails to teach or suggest such

limitations, as provided in the final Office Action of August 19, 2008, on page 9, sixth paragraph. The addition of Lundgren to the Walker-Johnson combination introduces further functionality; however, the Walker-Johnson-Lundgren combination fails to teach adjusting the amount of the payment based directly on accuracy of a predicted probability against a true probability that the condition to resolve the uncertainty to thereby satisfy the contingency occurs. Instead, Lundgren discloses a method of eliciting an unbiased forecast, or prediction, and compensating individual forecaster based on that forecaster's contribution to a collective forecast (Abstract). Forecasts of an individual forecaster and at least one other forecaster regarding a variable are received (Col. 15, lines 37-40). A criterion value, such as the actual value of the variable, is observed (Col. 15, lines 43-47). The forecasters' predictions are aggregated to obtain a collective prediction (Col. 16, lines 34-36). A secondary collective prediction is determined by aggregating all the predictions except for the individual forecaster's prediction (Col. 16, lines 38-40). Collective losses are determined for each collective prediction and the individual forecaster's marginal contribution to the accuracy of the collective prediction is calculated (Col. 16, lines 48-55). The individual forecaster's compensation is then computed based on the marginal contribution.

Specifically, Lundgren teaches paying an individual forecaster on the basis of whether their individual prediction moves the collective prediction closer or farther from the actual prediction than a second collective prediction that does not contain the individual forecaster's prediction. Thus, a forecaster is not paid based directly on how close the forecaster's prediction is to the actual prediction, per Claims 1 and 38, but is paid based on how far the forecaster's prediction moves a collective forecast toward the actual value. The method taught by Lundgren requires at least two forecasters (Col. 3, lines 50-51).

Accordingly, a *prima facie* case of obviousness has not been shown with respect to independent Claims 11 and 38. Claims 12, 16, 17, 20, and 32 are dependent upon Claim 11 and are patentable for the above-stated reasons, and as further distinguished by the limitations therein. Claims 39-41 are dependent upon Claim 38 and are patentable for the above-stated reasons, and as further

distinguished by the limitations therein. Withdrawal of rejection is respectfully requested.

Rejections under 35 U.S.C. § 103(a) over Walker as modified by Johnson and in further view of Lundgren

5 Claims 13-15 stand rejected under 35 U.S.C. § 103(a) as being obvious over Walker as modified by Johnson as applied to Claim 1 and in further view of U.S. Patent No. 5,608,620 to Lundgren. Applicant traverses.

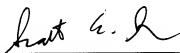
 As discussed above with respect to the first obviousness rejection, the Walker-Johnson-Lundgren combination fails to render Claims 11 and 38 obvious.
10 Claim 13 has been canceled and Claims 14 and 15 are dependent on Claim 11 and are patentable for the above-stated reasons, and as further distinguished by the limitations therein. Withdrawal of the rejection is requested.

 Further examination of the application is respectfully requested. Claims 11, 12, 14-17, 20, 32, and 38-41 are believed to be in a condition for allowance and a Notice of Allowance is earnestly solicited. Please contact the undersigned
15 at (206) 381-3900 regarding any questions or concerns associated with the present matter.

Respectfully submitted,

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By: 

Scott E. Smith, Esq.
Reg. No. 61,721

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Cascadia Intellectual Property
500 Union Street, Suite 1005
Seattle, WA 98101

Telephone: (206) 381-3900
Facsimile: (206) 381-3999

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